

**PART 52—[AMENDED]**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

**Subpart G—COLORADO**

2. Section 52.320 is amended by adding paragraph (c)(89) to read as follows:

**§ 52.320 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(89) On May 10, 2000, the Governor of Colorado submitted revisions to Regulation No. 13 “Oxygenated Fuels Program” that eliminated the Oxygenated Fuels Program for El Paso County and the Colorado Springs CO attainment/maintenance area.

(i) Incorporation by reference.

(A) Regulation No. 13 “Oxygenated Fuels Program”, 5 CCR 1001–16, as adopted on February 17, 2000, effective April 30, 2000, as follows: Sections I.D.19, II.A, II.A.1, II.A.2, II.C.1.a, II.C.1.b., and II.C.1.c.

3. Section 52.349 is amended by adding paragraph (e) to read as follows:

**§ 52.349 Control strategy: Carbon monoxide.**

\* \* \* \* \*

(e) Revisions to the Colorado State Implementation Plan, Carbon Monoxide Revised Maintenance Plan for Colorado Springs, as adopted by the Colorado Air Quality Control Commission on February 17, 2000, State effective April 30, 2000, and submitted by the Governor on May 10, 2000.

[FR Doc. 00–32300 Filed 12–21–00; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[DC048–2023; FRL–6921–1]

**Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Nitrogen Oxides Budget Program**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the District of Columbia (the District). This revision implements the District’s portion of the Ozone Transport Commission’s (OTC) September 27, 1994 Memorandum of

Understanding (MOU) which describes a regional nitrogen oxides (NO<sub>x</sub>) cap and trade program that will significantly reduce NO<sub>x</sub> emissions generated within the Ozone Transport Region (OTR). The intended effect of this action is to approve of the District’s regulations entitled, NO<sub>x</sub> Emissions Budget Program as a SIP revision in accordance with the requirements of the Clean Air Act.

**EFFECTIVE DATE:** This final rule is effective on January 22, 2001.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the District of Columbia Department of Public Health, Air Quality Division, 51 N Street, NE., Washington, DC 20002.

**FOR FURTHER INFORMATION CONTACT:** Cristina Fernandez, (215) 814–2178, or via e-mail at fernandez.cristina@epa.gov.

**SUPPLEMENTARY INFORMATION:****I. Background**

On August 28, 2000, the District’s Department of Health submitted a revision to its SIP for parallel processing. The revision to the SIP includes the addition of a new Chapter 10, Nitrogen Oxides Emissions Budget Program, to Title 20 of the District of Columbia Municipal Regulations (DCMR). On December 8, 2000, the District submitted fully adopted regulations as a supplement to its August 28, 2000 submittal. The revisions implement the Ozone Transport Commission’s (OTC) September 27, 1994 Memorandum of Understanding (MOU) in the District. In accordance with the MOU, the revisions implement the District portion of a regional NO<sub>x</sub> cap and trade program that significantly reduces NO<sub>x</sub> emissions generated within the Ozone Transport Region (OTR). On October 19, 2000 (65 FR 62671), EPA published a notice of proposed rulemaking (NPR) for the District of Columbia proposing to approve the August 28, 2000 SIP revision. That NPR provided for a public comment period ending on November 9, 2000. On November 9, 2000 (65 FR 67319), EPA published a notice extending the comment period to November 20, 2000. A detailed description of these SIP revisions and EPA’s rationale for approving them were

provided in the October 19, 2000 NPR and will not be restated here. EPA received no comments on its proposed action to approve this SIP revision.

**II. Final Action**

EPA is approving the SIP revision request submitted for parallel processing by the District’s Department of Health on August 28, 2000. The SIP revision and its associated regulations were formally adopted by the District of Columbia on December 8, 2000. The District formally submitted the fully adopted regulations to EPA as a supplement to its August 28, 2000 submittal. The regulations formally adopted were exactly the same as the proposed version upon which EPA proposed approval. The SIP revision consists of the District’s Chapter 10—Nitrogen Oxides Emissions Budget Program and implements the District’s portion of Phase II of the OTC’s MOU to reduce nitrogen oxides. Approval of this SIP revision is necessary for full approval of the attainment demonstration SIP for the Metropolitan Washington, DC ozone nonattainment area.

**III. Administrative Requirements****A. General Requirements**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255,

August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for

the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

*B. Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

*C. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 20, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial

review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action to approve the District of Columbia NO<sub>x</sub> Budget Program may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: December 14, 2000.

**Bradley M. Campbell,**  
*Regional Administrator, Region III.*

40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart J—District of Columbia**

2. In § 52.470, an entry for Chapter 10 is added in numerical order in the "EPA Approved Regulations in the District of Columbia SIP" table in paragraph (c) to read as follows:

**§ 52.470 Identification of plan.**

\* \* \* \* \*

(c) EPA approved regulations.

**EPA-APPROVED REGULATIONS IN THE DISTRICT OF COLUMBIA SIP**

State Citation	Title/Subject	State Effective Date	EPA Approval Date	Comments
*	*	*	*	*
CHAPTER 10 NITROGEN OXIDES EMISSIONS BUDGET PROGRAM				
Section 1000 .....	Applicability .....	12/08/00	December 22, 2000. 65 FR 80784.	
Section 1001 .....	General Provisions .....	12/08/00		
Section 1002 .....	Allowance Allocation .....	12/08/00		
Section 1003 .....	Permits .....	12/08/00		
Section 1004 .....	Allowance Transfer and Use .....	12/08/00		
Section 1005 .....	Allowance Banking .....	12/08/00		
Section 1006 .....	NO <sub>x</sub> Allowance Tracking System .....	12/08/00		
Section 1007 .....	Emission Monitoring .....	12/08/00		
Section 1008 .....	Record Keeping .....	12/08/00		
Section 1009 .....	Reporting .....	12/08/00		
Section 1010 .....	End-Of-Season Reconciliation .....	12/08/00		
Section 1011 .....	Compliance Certification .....	12/08/00		
Section 1012 .....	Penalties .....	12/08/00		
Section 1013 .....	Program Audit .....	12/08/00		
Section 1099 .....	Definitions and Abbreviations .....	12/08/00		
*	*	*	*	*

[FR Doc. 00-32566 Filed 12-21-00; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

[MT-001a; FRL-6920-4]

#### Clean Air Act Full Approval of Operating Permit Program; State of Montana

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final Rule.

**SUMMARY:** The EPA is promulgating full approval of the operating permit program submitted by the State of Montana. Montana's operating permit program was submitted for the purpose of meeting the federal Clean Air Act (Act) directive that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the states' jurisdiction.

**DATES:** This final rule is effective on January 22, 2001.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the U.S. Environmental Protection Agency, Air and Radiation Program, Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466 and are also available during normal business hours at the Montana Department of Environmental Quality, 1520 East 6th Avenue, Helena, Montana 59620-0901.

**FOR FURTHER INFORMATION CONTACT:** Patricia Reisbeck, 8P-AR, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Denver, Colorado 80202-2466, (303) 312-6435.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

As required under Title V of the Clean Air Act ("the Act") as amended (42 U.S.C. 7401 *et seq.*), EPA has promulgated rules that define the minimum elements of an approvable state operating permit program and the corresponding standards and procedures by which EPA will approve, oversee, and withdraw approval of state operating permit programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 Code of Federal Regulations (CFR) part 70 (part 70). Title V directs states to develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources.

The Act directs states to develop and submit operating permit programs to EPA by November 15, 1993, and requires that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act (42 U.S.C. 7661a) and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval. If EPA has not fully approved a program by two years after the November 15, 1993 date, or before the expiration of an interim program approval, it must establish and implement a federal program. The State of Montana was granted final interim approval of its program on May 11, 1995 (see 60 FR 25143) and the program became effective on June 12, 1995. Interim approval of the Montana program expires on December 1, 2001.

On June 13, 2000, EPA published a direct final rule in the **Federal Register** promulgating full approval of the Operating Permit Program for the State of Montana. See 65 FR 37049. The EPA received adverse comments on the direct final rule, which are summarized and addressed below. As stated in the **Federal Register** notice, if adverse comments were received by July 13, 2000, the rule would be withdrawn and timely notice would be published in the **Federal Register**. Therefore, due to receiving adverse comments within the comment period, EPA withdrew the final rule (65 FR 48391, August 8, 2000), and a proposed rule also published in the **Federal Register** on June 13, 2000 served as the proposed rule for this action. EPA will not institute a second comment period on this document.

In this rulemaking, EPA is taking final action to promulgate full approval of the Montana Operating Permit Program.

##### II. Analysis of State Submission

The Governor of Montana submitted an administratively complete Title V operating permit program for the State of Montana on March 29, 1994. This program, including the operating permit regulations (Title 16, Chapter 8, Sub-Chapter 20, Sections 16.8.2001 through 16.8.2025, inclusive, of the Administrative Rules of Montana (ARM)), substantially met the requirements of part 70. EPA deemed the program administratively complete in a letter to the Governor dated May 12, 1994. The program submittal included a legal opinion from the Attorney General of Montana stating that the laws of the State provide adequate legal authority to carry out all aspects of the program, and

a description of how the State would implement the program. The submittal additionally contained evidence of proper adoption of the program regulations, application and permit forms, and a permit fee demonstration.

EPA's comments noting deficiencies in the Montana program were sent to the State in a letter dated October 3, 1994. The deficiencies were segregated into those that would require corrective action prior to interim program approval, and those that would require corrective action prior to full program approval. The State committed to address the program deficiencies that would require corrective action prior to interim program approval in a letter dated October 20, 1994. The State submitted these corrective actions with letters dated March 30, and April 5, 1995. EPA reviewed these corrective actions and determined them to be adequate for interim program approval.

On January 15, 1998, Montana amended its operating permit program to make the corrections identified as necessary in the May 11, 1995 **Federal Register** notice of final interim approval. These program amendments, recodified at Title 17, Chapter 8, Sub-Chapter 12, Sections 1201, 1210, and 1213, ARM, were approved and adopted by the Montana Board of Environmental Review on January 15, 1998. The revised program regulations adequately addressed the problems identified in the May 11, 1995 **Federal Register** notice as requiring corrective action prior to full program approval. The State also submitted evidence of proper adoption of the revisions to its program regulations and a revised Attorney General's opinion dated July 31, 1998. The revised program and a request for full approval were submitted to EPA in a letter from the Governor of Montana dated February 4, 1999. EPA notified Montana, in a letter to the Department of Environmental Quality (DEQ) dated April 1, 1999, of two additional changes required for final approval. The DEQ revised the administrative rules to implement the two requested changes at Title 17, Chapter 8, Sub-Chapter 12, ARM. These amendments to Sub-Chapter 12 were approved and adopted by the Board on March 17, 2000. On April 12, 2000, the Governor of Montana submitted the revised program, with proof of proper adoption, and requested full approval of its operating permit program. EPA reviewed these changes and determined that they were adequate to allow for full approval. On June 13, 2000, EPA published a direct final rule in the **Federal Register** promulgating full approval of the Operating Permit Program for the State of Montana. See